

# REMOVING ILLEGALLY PARKED VEHICLES ON COMMON PROPERTY

Removing illegally parked vehicles from strata common property in New South Wales requires the Owners Corporation to follow a legal process under the *Strata Schemes Management Act 2015* and the *Uncollected Goods Act 1995*, including issuing notices, seeking mediation or NCAT orders, and complying with disposal requirements based on the vehicle's value. To avoid liability, all actions must align with enforceable by-laws, proper documentation, and statutory notice periods before engaging a licensed towing contractor.

## 1. UNDERSTANDING THE LEGAL FRAMEWORK

In New South Wales, the control and enforcement of parking on strata common property is governed by several pieces of legislation. Under the *Strata Schemes Management Act 2015 (SSMA)*, an Owners Corporation has the power and duty to control, manage, and administer the common property (Section 9). The Act also allows the Owners Corporation to make and enforce by-laws, which often include restrictions around parking. Schedule 3 of the *Strata Schemes Management Regulation 2016 (SSMR)* and Model By-law 1 specifically address the use of common property for vehicle parking and permit the Owners Corporation to regulate parking by way of signage or written authorisation.

The *SSMA* outlines the enforcement process for breaches of by-laws, including issuing notices to comply and imposing penalties, with relevant procedures in sections 146-147 [note – clauses 32-34 of the Regs have been repealed].

Where a vehicle has been abandoned or left on the common property without authorisation, and the owner cannot be contacted or refuses to remove it, the *Uncollected Goods Act 1995 (NSW)* provides a statutory process for lawful disposal. This Act categorises goods (including vehicles) based on their estimated value and imposes obligations on the “controller of goods”—in this case, the Owners Corporation—as to how such goods must be dealt with, depending on that value.



## 2. STEPS TO REMOVE AN ILLEGALLY PARKED VEHICLE

### Step 1: Confirm the Breach

Before taking any action, the Owners Corporation should first confirm that the vehicle is indeed parked in breach of a valid and enforceable by-law. This includes unauthorised parking on driveways, in visitor spaces, or obstructing access. Evidence should be collected—such as photographs, time/date records, and any visible vehicle details—to support subsequent action.

### Step 2: Issue a Notice or Warning

If the owner of the vehicle is known or identifiable, a written warning should be left on the vehicle and a formal **Notice to Comply** may be issued in accordance with **Section 146 of the SSMA**. This notice should reference the specific by-law being breached and provide a reasonable time for the vehicle to be removed.

### Step 3: Engage NSW Fair Trading (Optional)

If the breach continues despite the notice, or if the vehicle owner contests the matter, a complaint can be submitted to **NSW Fair Trading** for mediation. This is a voluntary but recommended step that may resolve the issue without escalation.



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## Step 4: Apply to NCAT

If informal and mediated attempts to resolve the situation fail, or are unlikely to achieve a resolution, the Owners Corporation may apply to the **NSW Civil and Administrative Tribunal (NCAT)** under **Sections 232 of the SSMA** for an order requiring the vehicle's removal. NCAT has authority to issue enforceable directions and can compel compliance with the strata scheme's by-laws.

## Step 5: Apply the Uncollected Goods Act 1995 (NSW)

If the vehicle is considered abandoned or the owner is unresponsive or unknown, the *Uncollected Goods Act 1995 (NSW)* comes into effect. The Owners Corporation, as the "controller of goods" under **Section 5(2)**, must comply with certain notice and disposal requirements depending on the vehicle's value.

Under **Section 20, 21 & 22**, goods are classified as:

- **Low-value** goods (less than \$1,000): require a **minimum of 14 days' notice**.
- **Medium-value** goods (\$1,000 to less than \$20,000): require **at least 1 month's notice**.
- **High-value** goods (\$20,000 or more): require a **minimum of 3 months' notice**.

The notice must be in writing and include a description of the vehicle, its location, the intention to dispose of it, and the method and date of disposal. The notice should be:

- Affixed to the vehicle itself;
- Displayed prominently on the premises (e.g., in a building noticeboard); and
- Delivered to the last known address of the owner, if available.

If the vehicle is not removed by the end of the notice period, the Owners Corporation may dispose of it. Any proceeds from the sale of the goods must be held in trust for the owner for a period of at least 6 months. Reasonable costs incurred for the removal, storage, or disposal may be deducted from the sale proceeds.

## Step 6: Engage Council or a Licensed Towing Contractor

Following the expiry of the required notice period under the *Uncollected Goods Act*, the Owners Corporation can lawfully remove the vehicle. This may be done through a local council (which may have powers under their parking or nuisance ordinances) or by engaging a licensed towing company. Any disposal must be consistent with the value thresholds and procedures outlined above.



## 3. PRECAUTIONS AND BEST PRACTICE

Owners Corporations must exercise caution to avoid liability. Towing or interfering with a vehicle without first complying with legal procedures may constitute trespass or conversion. It is advisable to maintain a **Parking Register** for both residents and visitors to assist with enforcement. The Owners Corporation should ensure that all by-laws related to parking are up-to-date, registered with **NSW Land Registry Services**, and clearly displayed within the building. If necessary, the Owners Corporation may consider introducing or updating a by-law specifically for parking enforcement, including mechanisms such as security patrols, time-limited parking, and the use of warning stickers.

